

Farm Credit Administration

§ 622.60

§§ 622.53–622.54 [Reserved]

§ 622.55 Notice of assessment of civil money penalty.

(a) *Notice of assessment.* The notice of assessment for a civil money penalty will state:

(1) The legal authority for the assessment;

(2) The amount of the civil money penalty being assessed;

(3) The date by which the civil money penalty must be paid;

(4) The matter of fact or law constituting the grounds for assessment of the civil money penalty;

(5) The right of the institution or person being assessed to a formal hearing to challenge the assessment;

(6) That failure to request a hearing constitutes a waiver of the opportunity for a hearing and the notice of assessment will constitute a final and unappealable order; and

(7) The time limit to request such a formal hearing.

(b) *Service.* The notice of assessment may be served upon the institution or person being assessed by personal service or by certified mail with a return receipt to the institution's or the person's last known address. Such service constitutes issuance of the notice.

[51 FR 21139, June 11, 1986, as amended at 70 FR 12585, Mar. 15, 2005]

§ 622.56 Request for formal hearing on assessment.

An institution or person being assessed may request a formal hearing to challenge the assessment of a civil money penalty. The request must be filed in writing, within 10 days of the issuance of the notice of assessment, with the Chairman of the Board, FCA, 1501 Farm Credit Drive, McLean, VA 22102–5090.

§ 622.57 Waiver of hearing; consent.

(a) *Waiver.* Failure to request a hearing pursuant to § 622.56 constitutes a waiver of the opportunity for a hearing and the notice of assessment issued pursuant to § 622.55 will constitute a final and unappealable order.

(b) *Consent.* Any party afforded a hearing who does not appear at the hearing personally or by a duly authorized representative is deemed to have

consented to the issuance of an assessment order.

[51 FR 21139, June 11, 1986, as amended at 70 FR 12585, Mar. 15, 2005]

§ 622.58 Hearing on assessment.

(a) *Time and place.* An institution or person requesting a hearing will be informed by order of the Board of the time and place set for hearing.

(b) *Answer; procedures.* The hearing order may require the institution or person requesting the hearing to file an answer as prescribed in § 622.5 of subpart A. The procedures of the Administrative Procedure Act (5 U.S.C. 554–557) and subpart A of these rules will apply to the hearing.

[51 FR 21139, June 11, 1986, as amended at 70 FR 12585, Mar. 15, 2005]

§ 622.59 Assessment order.

(a) *Consent.* In the event of consent of the parties concerned to an assessment, or if, upon the record made at a hearing ordered under this subpart, the Board finds that the grounds for having assessed the penalty have been established, the Board may issue an order of assessment of civil money penalty. In its assessment order, the Board may reduce the amount of the penalty specified in the notice of assessment.

(b) *Effective date and period.* An assessment order is effective immediately upon issuance, or upon such other date as may be specified therein, and will remain effective and enforceable unless it is stayed, modified, terminated, or set aside by action of the board or a reviewing court.

(c) *Service.* An assessment order may be served by personal service or by certified mail with a return receipt to the last known address of the institution or person being assessed. Such service constitutes issuance of the order.

[51 FR 21139, June 11, 1986, as amended at 70 FR 12585, Mar. 15, 2005]

§ 622.60 Payment of civil money penalty.

(a) *Payment date.* Generally, the date designated in the notice of assessment for payment of the civil money penalty will be 60 days from the issuance of the notice. If, however, the Board finds, in a specific case, that the purposes of the

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relevant statutes would be better served if the 60-day period were changed, the Board may shorten or lengthen the period or make the civil money penalty payable immediately upon receipt of the notice of assessment. If a timely request for a formal hearing to challenge an assessment of a civil money penalty is filed, payment of the penalty will not be required unless and until the Board issues a final order of assessment following the hearing. If an assessment order is issued, it will specify the date by which the civil money penalty is to be paid or collected.

(b) *Method of payment.* Checks in payment of civil money penalties must be made payable to the “Farm Credit Administration.” Upon collection, the FCA will forward payment for penalties described in § 622.52(a) and (b) to the United States Department of Treasury. The FCA will forward payment for penalties described in § 622.52(c) to the National Flood Mitigation Fund as required by 42 U.S.C. 4012a(f)(8).

[70 FR 12585, Mar. 15, 2005]

§ 622.61 Adjustment of civil money penalties by the rate of inflation under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

(a) The maximum amount of each civil money penalty within FCA’s jurisdiction is adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. 2461 note), as follows:

(1) Amount of civil money penalty imposed under section 5.32 of the Act for violation of a final order issued under section 5.25 or 5.26 of the Act: The maximum daily amount is \$1,100.

(2) Amount of civil money penalty for violation of the Act or regulations: The maximum daily amount is \$550 for each violation that occurs before March 16, 2005, \$650 for each violation that occurs on or after March 16, 2005, but before January 16, 2009, and \$750 for each violation that occurs on or after January 16, 2009.

(b) The maximum civil money penalty amount assessed under 42 U.S.C. 4012a(f) is \$350 for each violation that occurs before March 16, 2005, with total

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penalties under such statute not to exceed \$110,000 for any single institution during any calendar year. For violations that occur on or after March 16, 2005, but before January 16, 2009, the maximum civil money penalty is \$385 for each violation, with total penalties under such statute not to exceed \$110,000 for any single institution during any calendar year. For violations that occur on or after January 16, 2009, the maximum civil money penalty is \$385 for each violation, with total penalties under such statute not to exceed \$120,000 for any single institution during any calendar year.

[74 FR 2341, Jan. 15, 2009]

§§ 622.62–622.75 [Reserved]

Subpart C—Rules and Procedures Applicable to Suspension or Removal of an Individual Where Certain Crimes Are Charged or Proven

§ 622.76 Definitions.

Unless noted otherwise, the definitions set forth in § 622.2 of subpart A shall apply to this subpart.

§ 622.77 Purpose and scope.

The rules and procedures set forth in this subpart apply to informal hearings afforded to any officer, director, or other person participating in the conduct of the affairs of a System institution who has been suspended or removed from office or prohibited from further participation in any manner in the conduct of the institution’s affairs by a notice or order issued by the Board upon the grounds set forth in section 5.29 of the Act.

§ 622.78 Suspension, prohibition or removal.

(a) *Content.* The Board may serve a notice of suspension or prohibition or order of removal upon a director, officer or other person participating in the conduct of the affairs of an institution. A copy of such notice or order shall also be served upon the institution, whereupon the individual concerned shall immediately cease service to the institution or participation in the affairs of the institution. Any notice or